

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KENDALL TRAYMANE SPENCE,)	
ID # 1594392,)	
Petitioner,)	
vs.)	No. 3:14-CV-927-N (BH)
)	
WILLIAM STEPHENS, Director,)	Referred to U.S. Magistrate Judge
Texas Department of Criminal)	
Justice, Correctional Institutions Division,)	
Respondent.)	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Pursuant to *Special Order 3-251*, this case has been referred for findings, conclusions, and recommendation. Before the Court is the *Motion for Extension of Time to File Notice of Appeal*, received August 11, 2016 (doc. 33). Based on the relevant findings and applicable law, the motion should be granted.

I. BACKGROUND

Kendall Traymane Spence (Petitioner) challenged his conviction for murder pursuant to 28 U.S.C. § 2254 . His habeas petition was denied, and judgment, was entered on July 5, 2016. He filed a motion, signed on August 3, 2016, seeking a thirty-day extension of time to file his notice of appeal in the United States Court of Appeals for the Fifth Circuit, and the motion was transmitted for processing in the district court. Petitioner contends that he has been in transit since July 18, 2016, he cannot visit the prison law library for legal research while he is in transit status, and his transit status may not end until August 18, 2016.

II. MOTION TO EXTEND TIME TO APPEAL

Federal Rule of Appellate Procedure 4(a)(1) requires that a notice of appeal in a civil case be filed within thirty days of the entry of the judgment. The time to appeal may be extended up to

thirty days if a party moves for an extension of time within thirty days of the time to appeal and shows excusable neglect or good cause. Fed. R. App. P. 4(a)(5).

Petitioner's notice of appeal from the July 5, 2016 judgment was due by August 4, 2016. The motion for extension of time was filed within thirty days from that due date. Based on Petitioner's transit status, he has shown good cause for extending the time to appeal.

III. RECOMMENDATION

The *Motion for Extension of Time to File Notice of Appeal* should be **GRANTED** and Petitioner should have an extension of thirty days from August 4, 2016, to appeal.

SIGNED this 19th day of August, 2016.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE